



Department of Energy  
National Nuclear Security Administration  
Office of the General Counsel  
P. O. Box 5400  
Albuquerque, NM 87185



July 25, 2019

**SENT VIA EMAIL**

[77758-79336094@requests.muckrock.com](mailto:77758-79336094@requests.muckrock.com)

Mr. Martin Pfeiffer  
MuckRock News  
DEPT MR 77758  
411A Highland Ave  
Somerville, MA 02144-2516

**RECEIPT OF FREEDOM OF INFORMATION ACT REQUEST**

Dear Mr. Pfeiffer:

This letter acknowledges the receipt of your July 19, 2019, Freedom of Information Act (FOIA) request. You requested copies of the following:

“Studies, reports, memos, meetings minutes, test records, feasibility studies, and other records related to Projects Rumpler, Bayonet, Lek, Bayonet and Lek, and Sopwith all of which are identified as “EPW (Earth Penetrating Weapon) Developmental Programs” conducted as part of a “Sandia/Los Alamos EPW Program Historical Perspective of Accomplishments” discussion included as part of a presentation about Earth Penetrating Weapons in the document previously available on the DOE Online Reading Room at the following link: <http://nnsa.energy.gov/sites/default/files/nnsa/foiareadingroom/RR00275.pdf>”

It is the practice of the National Nuclear Security Administration, in accordance with Departmental policy, to process FOIA requests in the approximate order of the date received by this office. We will make every effort to respond to your request as quickly as possible. Although we are committed to responding to your request in a timely manner, we estimate that we will not be able to respond to your request in 20 working days. We need more time to complete the search of facilities geographically separated from this office, review the record(s) for release, and prepare the response to you, as some requests, depending upon the volume of records, the complexity of the search, and/or the sensitivity of the subject matter, require additional time to complete. Reformulating or otherwise narrowing the scope of your request may result in a quicker processing time.

In your FOIA request you identified yourself in the educational/scientific category for fee purposes. The agency asked you for clarification regarding the intended use of the requested documents, to which you replied that you intend to use the material for research, public dissemination, and to write about the material in scholarly and other publications. Your request for that fee category is denied because we have determined the use of records you requested is for your commercial or profit interest because you also charge a fee to patrons of your website for viewing/accessing records the agency provides to you. Based on our determination you are categorized as a “commercial use

requester." Therefore charges will be assessed to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Our agency will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records. This request is currently pending and processing will begin once we are notified of your willingness to either pay all fees, or notify us of the exact dollar amount of fees you are willing to pay, in accordance with 10 CFR § 1004.4(e). If we do not receive a response regarding your willingness to either pay all fees or your willingness to pay fees up to a stated dollar amount by August 6, 2019 we will consider your request invalid and will close it with no further action.

You may appeal our denial of fee category pursuant to 10 CFR § 1004.8(a). Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal. Please clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by e-mail to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

You may contact me, as NNSA's FOIA Public Liaison at 1-866-747-5994, or by mail at Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM 87185, for further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have questions concerning the processing of this request, please contact Erica White by e-mail at [Erica.White@nnsa.doe.gov](mailto:Erica.White@nnsa.doe.gov), or write to the address above. Please reference Control Number FOIA 19-00281-EW in your communication.

Sincerely,



Pamela Arias-Ortega  
Authorizing & Denying Official